

APPROVED: Meeting No. 27-94

ATTEST: *Paula Jewell*

MAYOR AND COUNCIL  
ROCKVILLE, MARYLAND  
Meeting No. 24-94

August 1, 1994

The Mayor and Council of Rockville, Maryland, convened in General Session in the Council Chamber, Rockville City Hall, 111 Maryland Avenue, Rockville, Maryland, on August 1, 1994, at 7:33 p.m.

PRESENT

Mayor James F. Coyle

Councilmember Robert E. Dorsey

Councilmember Rose G. Krasnow

Councilmember James T. Marrinan

Councilmember Nina A. Weisbroth

In attendance: City Manager Bruce Romer, City Clerk Paula Jewell, and Assistant City Attorney Sondra Block.

Re: City Manager's Report

1. August 2, 1994 is National Night Out. Rockville was one of the first communities to start the observance of National Night Out which is now a nationwide event. Twenty-three separate neighborhoods and neighborhood groups will be gathering in various social events and members of the Mayor and Council will try to visit each neighborhood event. Mr. Romer said the City was extremely grateful for the cooperation of all its residents in the event.

2. Mr. Romer said that the FYI Report underscored the Human Rights Commission's (HRC) proposal for a community mediation program, and that HRC felt such a program would be

an alternative to some of the more adversarial processes they have been involved in over the years. Mr. Romer commented that the proposal presented followed along with the Mayor and Council's goal to reach into the community and mediate issues in a different way. The proposal has the preliminary endorsement of the Commission and will move forward on a trial basis.

3. Mr. Romer updated the Mayor and Council on the recent events regarding the land swap with Montgomery County government. A major goal of the City was to acquire the Rockville Senior Center and the North Rockville Forrest. On July 26th, Montgomery County Council voted unanimously to give its final approval to the land swap and transfer of the Senior Center. Mr. Romer said he was gratified to learn that Rockville seniors showed their support by attending the County meeting in support of the effort. He also said the seniors and the City's senior program made the compelling argument as to why the building should be owned by the City. On July 27th, the State Board of Public Works gave its approval to the transfer and Mr. Romer suggested that the Mayor and Council conduct a ceremonial function to transfer all the deeds on September 8th.

Councilmember Marrinan expressed his appreciation to staff and the seniors. Councilmember Krasnow added that she had the opportunity to be at the County meeting, and she was also gratified to see the presence of so many seniors at the County meeting.

Re: Presentation of check to the City of  
Rockville from Rockville Seniors,  
Inc.

Arthur Sellers, Treasurer of RSI, accompanied by Chairman Robert Mentzer, RSI Board members, and other senior volunteers, presented a check to the Mayor and Council, in the amount of \$37,000, representing RSI's annual contribution to the City.

Re: Proclamation declaring August 27, 1994 as **THE WASHINGTON-ROCKVILLE LODGE #15 ELKS DAY** in Rockville.

The Rockville Elks have merged with the Washington Lodge and its Ladies and will celebrate with a Mortgage Burning Ceremony on August 27, 1994. Exalted Ruler Carl Sharpless will accept the Proclamation.

By a unanimous vote of the Mayor and Council, August 27, 1994 was declared as **THE WASHINGTON-ROCKVILLE LODGE #15 ELKS DAY** in Rockville. Upon the request of the Mayor, Councilmember Krasnow read the Proclamation, the full text of which can be found in Proclamation File No. 7 of the Mayor and Council. Exalted Ruler, Carl Sharpless accepted the Proclamation.

Re: Change In Agenda Order

Councilmember Krasnow moved that the order of the agenda be changed to take up the appointments before Citizens Forum. The motion was seconded and without objection, the order of the agenda was changed.

Re: Appointments to the Human Needs and Services Advisory Task Force (HNASATF)

Mayor Coyle explained the concept of the idea for forming the HNASATF and the statement of purpose.

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the following appointments were made to the Human Needs and Services Advisory Task Force (HNASATF): Rusty Wallace (Chair); Eleanor Northway (Vice Chair); David L'Heureux; Robert Lane; Audrey Beck; Donna Perry; Geoffrey Becker; Art Rossi; Marjorie Collins; Richard

Rothenberg; Raul Garcia; Anne Taylor; William Goodwin; Frances Vaughan; Lucinda Hall; Ralph Williams; Viola Hovsepian; Jack Young; and Gayle Kessler. Mayor Coyle introduced those members who were present.

Re: Citizens Forum - This time is set aside to hear from any citizen who wishes to address the Mayor and Council.

1. Bob Wright, 209 Watts Branch Parkway, President of the Rockshire Citizens Association, thanked the Mayor and Council and staff for the tree pruning efforts along Watts Branch Parkway.
2. Tom Curtis, Lindley Terrace, Chairperson of Rockville Common Ownership Communities Association (RCOCA) informed the Mayor and Council that RCOCA was at the end of its third year in existence. Mr. Curtis said that in the three years, the organization has handled seven mediation and arbitration cases, and he encouraged anyone in the community who felt they had a dispute that needed to be mediated, to feel free to bring their issue to RCOCA.
3. Carol Hannaford, 5718 Wainwright Avenue representing the Rockville Human Rights Commission (HRC) urged the Mayor and Council's support for the Commission's recommendation to continue a City independent celebration of King Day. Ms. Hannaford also spoke about HRC's plans to develop a mediation program for hate/violence incidents in the City; she asked for the Council's support in such a program and she stressed the need to fill existing vacancies on the Commission in order to carry out the program.

Mayor Coyle said a few years back, lawyers in the City had suggested a community mediation program. He said that it might be helpful to find the history on the original proposal. He also noted that the Mayor and Council were planning to meet with neighborhood associations in September and he suggested that the topic of community mediation for neighborhood issues might be

a good idea. Councilmember Dorsey suggested that the proposed mediation team include trained members from the City's civic and community associations. Mayor Coyle suggested the Council try to meet in worksession prior to the civic association meeting.

Councilmember Dorsey commented on the four Commission vacancies; he noted that HRC seemed to be doing well with the current composition of members, and he questioned whether an 11-member commission was still realistic. Ms. Hannaford said that a full commission was needed to be involved in the running of a mediation program. Mayor Coyle suggested getting input from the City Attorney regarding any legal issues, such as employment law and land use issues, that may arise from mediation.

Re: Approval of Minutes

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the Minutes of Meeting No. 20-94 (May 31, 1994) were approved as written.

Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the Minutes of Meeting No. 21-94 (June 13, 1994) were approved as written.

Re: Consent Agenda

Councilmember Dorsey requested removal of Item A. Upon motion of Councilmember Krasnow, duly seconded and unanimously passed, the following Consent Agenda items were approved:

- (B) Award of Bid: #32-95  
To: Nazario Construction Co., Inc.  
Of: Beltsville, Maryland  
In the amount of: \$320,320  
  
For: Construction of Fleet Street roadway  
and 12" water main between Richard  
Montgomery Drive and Mt. Vernon Place.

Funds for each project have been authorized by the Mayor and Council in the FY95 Capitol Improvements Program.

- (C) Acceptance of Text Amendment  
Application TXT94-0144, Joseph A. Lynott, Attorney for Federal Realty Investment Trust, Applicant.

Amendment to the Zoning Ordinance so as to allow additions to certain developments in the RPC Zone to encroach into the RPR Zone.

Re: Award of Bid:  
Cooperative Purchase  
Maryland Contract #P67379  
To: 3M Company  
Of: St. Paul, Minnesota  
In the amount of: \$34,848.95

For: Cold Plastic Pavement Markings

Councilmember Dorsey requested removal of the item to question the two charts of accounts that the items were budgeted in. Mr. Romer said all numbers were general fund numbers representing the traffic maintenance account and the street division account; for accounting purposes, they were charged back to each division. Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, the Cooperative Purchase Contract was awarded to the 3M Company.

Re: Adoption of Ordinance to Revise and Amend Ordinance No. 10-94 appropriating funds and levying taxes for Fiscal Year 1995.

Based on designation of the City as the grantee for State and County funds to finance the reconstruction of Town Center, it is necessary to appropriate these funds within the City's Capital Improvements Program. Three projects are affected, adding \$8,565,000 to the

amount appropriated in the general capital projects fund for fiscal year 1995.

Ordinance #14-94

Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, the Ordinance revising and amending Ordinance No. 10-94 appropriating funds and levying taxes for Fiscal Year 1995 was adopted. A full text of the Ordinance may be found in Ordinance Book No. 18 of the Mayor and Council.

Re: Approval for participation in the off-site SWM program for quantity control resulting from the construction of a single family home on the rear of a subdivided lot at 13 Martins Lane in the Rock Creek drainage area and the acceptance of a \$12,000 contribution for the off-site SWM fund.

The runoff is conveyed to the existing Maryvale II SWM facility.

Mr. Romer said the request was for participation in the SWM program, and the category represented the entry level into the program and was the least complex of all possible scenarios. The runoff approved for participation would go to an existing SWM facility and staff was recommending approval. Councilmember Weisbroth questioned what happened to money for a project where a system was already up and running. Mr. Romer responded that the funding was treated in a global fashion; all facilities--both current and approved to be built were managed out of one fund. Councilmember Krasnow said that in the project, runoff would travel 400 feet across a grass lawn before it went into the existing system; she questioned if the lawn was an existing homeowner's lawn. Mr. Romer stated that he will check this out and report back to Council.

Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, the participation in the off-site SWM program for quantity control was approved, and the \$12,000 contribution for the off-site SWM fund was accepted.

Re: Approval of Amendments to the City of Rockville Pension Plan as recommended by the Retirement Board.

On July 18, 1994, the Retirement Board met and recommended amendments to the Pension Plan to stipulate that employee decisions about the percentage of pay to be contributed to the Thrift Plan, as well as decisions as to whether unused sick leave should be applied to service credit or paid out in cash at time of retirement, should be made irrevocably at the time of commencement of employment. The Retirement Board also amended the plan to clarify that employees commencing a second term of service with the City may buy back up to three years credit pertaining to their initial period of employment.

Mr. Romer explained that the City's seven member Retirement Board was constituted by ordinance and met fairly regularly. Generally, the Board annually makes recommendations to the Mayor and Council on certain employee matters. Mr. Romer said that recently the Board was presented with two issues. One was a matter of clarification on the provision to buy back certain service credit when the employee worked with another governmental unit; it was not clear that this included service with the City of Rockville. The other issue was raised by the City's actuary and legal counsel who suggested that there may be problems with the City's pension plan with respect to the Internal Revenue Service. The Board met and dealt with the issue. In utilizing the services of



all experts available, the Board came up with the recommendation that employees, when entering the plan, must make a one time irrevocable decision about the amount of money that they want to contribute to the plan.

Councilmember Marrinan added that the issue was the result of IRS regulations that govern all pension plans. He said in looking at the plan, the City's auditor identified this as an area of concern. Legal counsel looked at the issue and it became clear that hard decisions were needed about how the plan would be administered. New employees had to make the decision early on and the number of options they would have in the pension system were reduced in order for the City to retain the pension plan. Issues regarding the percentage to be contributed must be made by the new employee. In addition, when the employee came into employment, they would have to decide whether unused sick leave should be paid as a cash payment when they leave employment or whether it should be a service credit.

Councilmember Dorsey said the percentage to be chosen was based on a one-time decision, and he asked what would happen if an employee had to modify their retirement plans as their lives changed. He said the provision severely limited an employee's flexibility.

Councilmember Krasnow commented that her family had a plan which allowed them to make the election at least once a year, allowing them to change their contributions based on the needs of the family. Finance Director, Kevin Deckard confirmed that there were other types of plans available to private employees.

Councilmember Weisbroth said she was dismayed to see that the City's plan limited employees, particularly those young employees whose life situations often changed. She asked if the IRS Code prevented the City from changing the Plan either annually or every five years. Mr. Deckard said according to the legal advice they were given, options to change plans were precluded.

Councilmember Krasnow suggested that the City might want to attempt, through the IRS, some change in the pension laws. She also said that the sick leave provision was equally unfair to all municipal employees. Councilmember Marrinan suggested that the issues be raised with other municipal organizations, e.g., the Maryland Municipal League as well as the Council of Governments.

Mr. Romer pointed out that City employees did have a viable option for contributing pre-tax or non taxable income--there was the 457 Deferred Compensation Plan which a number of employees were involved in.

Councilmember Weisbroth suggested going forth with Councilmember Marrinan's and Krasnow's suggestion to pursue legislative changes to the pension laws, along with the Maryland Municipal League and COG.

Upon motion of Councilmember Weisbroth, duly seconded and unanimously passed, the Amendments to the City of Rockville Pension Plan as recommended by the Retirement Board were approved.

Re: Discussion and instructions to staff  
regarding Human Rights  
Commission's recommendations for  
the 1995 Martin Luther King, Jr.  
Day Celebration.

Councilmember Krasnow said that the Mayor and Council should honor the Commission's recommendation to have a separate King Day celebration. She said that she suspected that the other individual jurisdictions involved will decide to have their own separate program in that separate celebrations did have a hometown feeling; in the City's program, Rockville school children and leaders could be focused on--a focus that would be lost in a joint program which effectively was supposed to appeal to 750,000 people.

Councilmember Marrinan said he was pleased to have the opportunity to revisit the issue and while he was disappointed with not doing a joint celebration; it was clear that it made the most sense for the City of Rockville to have a program that focused on the City. He also said the other jurisdictions weren't prepared to make the financial contributions that the City had been making and was planning to make in the future. Mr. Marrinan said he would support the independent Rockville ceremony.

Councilmember Weisbroth said she concurred with other comments. She indicated that one element important to Rockville was the equal share in financial support of the program which was not forthcoming. She said she appreciated HRC revisiting and giving their thoughts on the issue. In honoring HRC's suggestion to keep the program in Rockville, Ms. Weisbroth stated her support for the Commission's recommendation.

Councilmember Dorsey said he had always liked the idea of an independent Rockville celebration; however, he asked if the City knew how the County felt about a separate program. Director of Community Services, Josephine Roberts, said that she had spoken to the Chair of the Montgomery County King Day Commemoration Committee, and even though they will not meet until September, it was clear they were in support of a joint program.

Mayor Coyle said he felt it was a good idea to have a joint program, however, said that all jurisdictions involved felt that some features were lost in a joint program. He commented that the City's Human Rights Award lost its historical lustre and visibility in the joint program.

Councilmember Marrinan asked that special effort be made to share with the County and the other jurisdictions, the City's rationale for deciding to go back to a separate program. Mayor Coyle said he would send a letter on behalf of the Council, to the Commemoration Committee Chair and the Montgomery County Council about the Mayor and Council's decision.

Councilmember Dorsey said he appreciated the lead taken by the City's the Human Right's Commission on this issue. Councilmember Krasnow suggested that a recommendation be made to the County that it might not be necessary for them to have a separate program, and to encourage localized efforts instead. Upon motion of Councilmember Dorsey, duly seconded and unanimously passed, staff was instructed to plan for an independent Rockville celebration for Martin Luther King, Jr. Day.

Re: FYI/Correspondence

1. Councilmember Marrinan noted three letters of appreciation to Police Department personnel; he thanked Chief Treschuk for the positive relationship community policing has built into the community.

2. Councilmember Krasnow remarked on an item of correspondence received earlier noting the Chadsbury Homeowners Association opposition to the SWM facility proposed for Montrose Park; she asked that staff follow up on this as the facility had been planned long before the Cabin John Watershed study was commissioned.

3. Councilmember Dorsey said a community mediation program as proposed by the Human Rights Commission was timely and he looked forward to discussing this.

Re: New Business

1. Legislative Issues to Follow Up on with the National League of Cities. The Mayor and Council discussed legislative issues they would take a position on. It was recommended that the City follow up and go on record in support of the following issues: anti-crime legislation; unfunded mandates; and the telecommunications act.

2. Rockville Senior Center. Mayor Coyle noted that it was exciting for the City to take on ownership of the Senior Center; he remarked on the efforts of the seniors by raising money to

contribute to the City that offset some of the costs for providing senior programs. Councilmember Krasnow commented that it was exciting to get ownership of the center. She said that many seniors told her that in talking with other seniors around the country, not many had the type of Senior Center enjoyed by Rockville residents. Ms. Krasnow also acknowledged the efforts of former Mayor Duncan in these efforts.

3. Operating Grant Adjustment for National Chamber Orchestra (NCO).

Councilmember Krasnow stated that her husband was on the Board of NCO and that she would recuse herself from the following discussion and decision. Mayor Coyle said the City received a request from NCO for an increase of \$15,000 in their 1994-95 operating grant. With the FY95 budget allocation of \$5,000, this brought the total subsidy to \$20,000. The City recently received a \$20,000 grant from the Maryland State Arts Council which was not available at the time the budget allocation was made, and NCO Director, Piotr Gajewski requested that the Mayor and Council consider providing NCO with \$15,000 of the grant and holding the \$5,000 budget allocation back until the master plan from the Cultural Arts Commission (CAC) was available with its recommendations for funding the arts.

Councilmember Marrinan said that NCO's long term viability was an issue and while the solution proposed was a short term one, the problem may be long term. Mayor Coyle noted that the CAC was working on a plan that would address revenue sources for all of the City's arts programs. Councilmember Marrinan noted that the problems experienced by Rockville Arts Place and NCO raised a larger issue--two major organizations which definitely added to the quality of life for Rockville residents, were in financial trouble. He said it would be important to work towards solving these problems.

Councilmember Krasnow said that she served on the County's cultural arts task force which was looking at the issue of funding for the arts in the County with the hope of greatly increasing the county's contribution and bringing in other sources that would help everyone.

Councilmember Dorsey noted the experience with Rockville Arts Place and he said that discussions with RAP resulted in a greater commitment by RAP to make itself more accessible and visible to the public. He suggested that the challenge be also given to NCO to go out and promote arts sensitivity in the community.

Upon motion of Councilmember Weisbroth, duly seconded and passed (Councilmember Krasnow abstained), \$15,000 from the \$20,000 grant was appropriated to NCO, pending the review and comment of the Cultural Arts Commission. If the CAC found that the City should not go forward with this, staff was instructed to review the matter and bring back the issue for the Mayor and Council to revisit in September.

4. Appointment of City Representative to Montgomery Community Television. Upon motion of Councilmember Marrinan, duly seconded and unanimously passed, Roald Schrack was reappointed to serve as the City's representative to the Montgomery County Television Board.

5. On July 31st, Mayor Coyle and Councilmember Marrinan participated in the dedication of the new Rockville Municipal Swim Center electronic scoreboard. The Coca Cola Company donated \$15,000 towards the purchase of the board, and other groups made donations to pay for installation and maintenance of the new scoreboard.

6. Without objection, the Council authorized funding for the Mayor to attend a September Global Summit for Mayors on Trade Efficiency conference in Columbus, Ohio, if his schedule should allow it.

7. Councilmember Marrinan commented on the Council of Governments' annual report; he noted some of the activities that COG was involved in: planning for better air quality and transportation, ensuring safe drinking water, child programs, drunken driving, and anti-violence programs. Mr. Marrinan said it was important to point out that there were many programs and committees that City officials and staff were involved in, including the cooperative purchasing program, which involved a great deal of time and commitment, but also saved the City money.

8. Mayor Coyle noted that the newly appointed members to HNASATF would be meeting the second week in September.

Re: Adjournment

There being no further business to come before the Mayor and Council, the meeting was adjourned at 9:50 p.m., to convene again in General Session at 7:30 p.m. on September 12, 1994, or at the call of the Mayor.